

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2392

AN ACT

AMENDING SECTION 13-405, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-418 AND 13-419; RELATING TO JUSTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 13-405, Arizona Revised Statutes, is amended to
3 read:
4 13-405. Justification; use of deadly physical force
5 A person is justified in threatening or using deadly physical force
6 against another EITHER:
7 1. If ~~such~~ THE person would be justified in threatening or using
8 physical force against the other under section 13-404, and
9 ~~2.~~ when and to the degree a reasonable person would believe that
10 deadly physical force is immediately necessary to protect himself against the
11 other's use or attempted use of unlawful deadly physical force.
12 2. IF THE PERSON WOULD BE JUSTIFIED IN THREATENING OR USING PHYSICAL
13 FORCE AGAINST THE OTHER UNDER SECTION 13-418.
14 Sec. 2. Title 13, chapter 4, Arizona Revised Statutes, is amended by
15 adding sections 13-418 and 13-419, to read:
16 13-418. Home protection; use of deadly physical force;
17 presumption; definitions
18 A. A PERSON IS JUSTIFIED IN THREATENING OR USING PHYSICAL FORCE OR
19 DEADLY PHYSICAL FORCE AGAINST ANOTHER IF THE PERSON REASONABLY BELIEVES
20 HIMSELF OR ANOTHER PERSON TO BE IN IMMINENT PERIL OF DEATH OR SERIOUS BODILY
21 INJURY AND BOTH OF THE FOLLOWING APPLY:
22 1. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE
23 IS USED WAS IN THE PROCESS OF UNLAWFULLY OR FORCEFULLY ENTERING, OR HAD
24 UNLAWFULLY OR FORCIBLY ENTERED, A RESIDENTIAL STRUCTURE OR OCCUPIED VEHICLE,
25 OR HAD REMOVED OR WAS ATTEMPTING TO REMOVE ANOTHER PERSON AGAINST THE OTHER
26 PERSON'S WILL FROM THE RESIDENTIAL STRUCTURE OR OCCUPIED VEHICLE.
27 2. THE PERSON WHO USES PHYSICAL FORCE OR DEADLY PHYSICAL FORCE KNEW OR
28 HAD REASON TO BELIEVE THAT AN UNLAWFUL OR FORCIBLE ENTRY OR UNLAWFUL OR
29 FORCIBLE ACT WAS OCCURRING OR HAD OCCURRED.
30 B. FOR THE PURPOSES OF SUBSECTION A OF THIS SECTION, A PERSON IS
31 PRESUMED TO BE ACTING REASONABLY IF THE PERSON IS ACTING AGAINST ANOTHER
32 PERSON WHO UNLAWFULLY OR FORCEFULLY ENTERS OR ENTERED THE PERSON'S
33 RESIDENTIAL STRUCTURE OR OCCUPIED VEHICLE.
34 C. THE PRESUMPTION UNDER SUBSECTION B OF THIS SECTION DOES NOT APPLY
35 IF:
36 1. THE PERSON AGAINST WHOM PHYSICAL FORCE OR DEADLY PHYSICAL FORCE WAS
37 USED HAS THE RIGHT TO BE IN OR IS A LAWFUL RESIDENT OF THE RESIDENTIAL
38 STRUCTURE OR VEHICLE, INCLUDING AN OWNER, LESSEE, INVITEE OR TITLEHOLDER, AND
39 AN ORDER OF PROTECTION OR INJUNCTION AGAINST HARASSMENT HAS NOT BEEN FILED
40 AGAINST THAT PERSON.
41 2. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE
42 WAS USED IS THE PARENT OR GRANDPARENT, OR HAS LEGAL CUSTODY OR GUARDIANSHIP,
43 OF A CHILD OR GRANDCHILD SOUGHT TO BE REMOVED UNDER SUBSECTION A, PARAGRAPH 1
44 OF THIS SECTION.

1 3. THE PERSON WHO USES PHYSICAL FORCE OR DEADLY PHYSICAL FORCE IS
2 ENGAGED IN AN UNLAWFUL ACTIVITY OR IS USING THE RESIDENTIAL STRUCTURE OR
3 OCCUPIED VEHICLE TO FURTHER AN UNLAWFUL ACTIVITY.

4 4. THE PERSON AGAINST WHOM THE PHYSICAL FORCE OR DEADLY PHYSICAL FORCE
5 WAS USED IS A LAW ENFORCEMENT OFFICER WHO ENTERS OR ATTEMPTS TO ENTER A
6 RESIDENTIAL STRUCTURE OR OCCUPIED VEHICLE IN THE PERFORMANCE OF OFFICIAL
7 DUTIES OR THE PERSON USING FORCE KNEW OR REASONABLY SHOULD HAVE KNOWN THAT
8 THE PERSON WAS A LAW ENFORCEMENT OFFICER.

9 D. A PERSON HAS NO DUTY TO RETREAT BEFORE THREATENING OR USING
10 PHYSICAL FORCE OR DEADLY PHYSICAL FORCE PURSUANT TO THIS SECTION.

11 E. FOR THE PURPOSES OF THIS SECTION:

12 1. "RESIDENTIAL STRUCTURE" HAS THE SAME MEANING PRESCRIBED IN SECTION
13 13-1501.

14 2. "VEHICLE" MEANS A CONVEYANCE OF ANY KIND, WHETHER OR NOT MOTORIZED,
15 THAT IS DESIGNED TO TRANSPORT PERSONS OR PROPERTY.

16 13-419. Attorney fees; costs

17 THE COURT SHALL AWARD REASONABLE ATTORNEY FEES, COSTS, COMPENSATION FOR
18 LOST INCOME AND ALL EXPENSES INCURRED BY A DEFENDANT IN THE DEFENSE OF ANY
19 CIVIL ACTION BASED ON CONDUCT OTHERWISE JUSTIFIED PURSUANT TO THE PROVISIONS
20 OF THIS CHAPTER WHERE THE DEFENDANT PREVAILS IN THE CIVIL ACTION.